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Judge Zilly

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MAY - 2 2001

BY CLERK US DISTRICT COURT
AT SEATTLE
WESTERN DISTRICT OF WASHINGTON
DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

NO. CR01-153Z

Plaintiff,

v.

ERNEST JAMES JACKSON,

Defendant.

PLEA AGREEMENT

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Comes now the United States of America, by and through Katrina C. Pflaumer, United States Attorney, and Susan Loitz, Assistant United States Attorney for the Western District of Washington, and the defendant, Ernest James Jackson, and his attorney, Paula Deutsch, and enter into the following Agreement, pursuant to Rule 11(e), Federal Rules of Criminal Procedure.

1. Waiver of Indictment. The defendant, having been advised of the right to be charged by Indictment agrees to waive that right and enter a plea of guilty to a charge brought by the United States Attorney in an Information.

2. The Charge. The defendant, having been advised of the right to have this matter tried before a jury, agrees to waive that right and to enter a plea of guilty to the charge of knowingly and fraudulently making false statements under penalty of perjury in relation to a bankruptcy case, in violation of Title 18 U.S.C. Section 152(3), contained in the Information. By entering this plea of guilty, the defendant hereby waives any and all objections to the filed charge predicated on the form of the charging Information.

3. The Penalties. The defendant understands and acknowledges that the

1 statutory penalties for the offense of knowingly and fraudulently making a false statement
2 under penalty of perjury in relation to a bankruptcy case, as charged in the Information are
3 imprisonment for up to five (5) years, a fine of up to two hundred fifty thousand dollars
4 (\$250,000.00), a period of supervision following release from prison of up to three (3) years,
5 and a one hundred dollar (\$100.00) penalty assessment. The defendant agrees to pay the
6 penalty assessment at or before the time of sentencing.

7 4. Rights Waived by Pleading Guilty. The defendant understands and
8 acknowledges that, by pleading guilty, he knowingly and voluntarily waives the following
9 rights:

- 10 a. The right to plead not guilty, and to persist in a plea of not guilty;
- 11 b. The right to be presumed innocent until guilt has been established at trial,
12 beyond a reasonable doubt;
- 13 c. The right to trial before a jury of the defendant's peers, and at that trial,
14 the right to the effective assistance of counsel;
- 15 d. The right to confront and cross-examine witnesses against the defendant;
- 16 e. The right to compel or subpoena witnesses to appear on the defendant's
17 behalf;
- 18 f. The right to testify or to remain silent at trial at which such silence could
19 not be used against the defendant; and
- 20 g. The right to appeal a finding of guilty or any pretrial rulings.

21 5. Applicability of Sentencing Guidelines. The defendant understands and
22 acknowledges the following:

- 23 a. That the United States Sentencing Guidelines, promulgated by the United
24 States Sentencing Commission, are applicable to this case;
- 25 b. That the Court will determine the defendant's applicable Sentencing
26 Guidelines range at the time of sentencing;
- 27 c. That the Court may impose any sentence authorized by law, including a
28 sentence that, under some circumstances, departs from any applicable Sentencing Guidelines

1 range up to the maximum term authorized by law;

2 d. That the Court is not bound by any recommendation regarding the
3 sentence to be imposed, or by any calculation or estimation of the Sentencing Guidelines range
4 offered by the parties, or by the United States Probation Department; and,

5 e. The defendant may not withdraw a guilty plea solely because of the
6 sentence imposed by the Court.

7 6. Ultimate Sentence. The defendant acknowledges that no one has promised or
8 guaranteed what sentence the Court will impose.

9 7. Restitution. The defendant shall make restitution to Bruce P. Kriegman, the
10 Chapter 7 Bankruptcy Trustee, for the benefit of the defendant's bankruptcy estate, in the
11 amount of twenty-five thousand dollars (\$25,000.00), less any monies already paid to or
12 collected by the Mr. Kriegman under the judgment entered against the Defendant in
13 connection with his Chapter 7 bankruptcy case. Said amount shall be due and payable
14 immediately.

15 8. Loss Amounts. The United States and the defendant agree that \$25,000.00 is
16 the correct amount of loss for purposes of § 2F1.1(b)(1) of the sentencing guidelines.

17 9. Elements of the Offense. The United States and the defendant agree that the
18 elements of the offense charged in the Information are that: a.) on or about February 11,
19 1997, the defendant knowingly and fraudulently gave the answers set forth in the Information
20 under penalty of perjury in response to questions connection with how he was supporting
21 himself; b.) the statements were given in connection with his bankruptcy case which was filed
22 under Title 11 of the United States Code, c.) he knew at the time he testified that these
23 answers were false and misleading; and d.) this false and misleading testimony was material to
24 his bankruptcy case.

25 10. Statement of Facts. The parties agree on the following facts for purposes of
26 calculating the base offense level of the sentencing guidelines.

27 a. The defendant filed a Chapter 7 Bankruptcy petition on or about
28 December 12, 1996.

b. On or about February 11, 1997, in connection with his Chapter 7 Bankruptcy case, the defendant testified under penalty of perjury at a creditors' meeting held pursuant to Title 11, Section 341 of the Bankruptcy Code.

c. During such testimony, the defendant knowingly and fraudulently made false statements under oath in response to inquiries about how he was supporting himself. Specifically, in response to the questions set forth below, the defendant provided the answers set forth below:

"Q: But how are you presently paying your rent and paying for food, etcetera, at present?

A: ... I've -- I'm sharing with my children, and I haven't paid them my share of the rent yet."

"Q: So I guess my question still stands, though: How are you supporting yourself? Because she's [JACKSON'S daughter] providing you the housing, but where are you getting the money to pay for food and things like that?"

A. Well, it's getting pretty skinny.

Q: Well, how are you doing with skinny that you got? That's what I'm asking.

A: Well, I had a few dollars on my schedule when I filed.

Q: Right, Right.

A: And I eat with the kids a lot."

d. Such testimony was false and misleading in that the defendant knew at the time of this testimony that he was receiving \$2,000 to \$3,000 a month for management of the Rocking J Ranch and was using that money to help support himself.

e. Such false and misleading testimony was material to the defendant's then pending Chapter 7 Bankruptcy case.

11. Acceptance of Responsibility. If the defendant has accepted responsibility for the offense(s) and the United States Probation Office recommends to the Court that the defendant receive a downward adjustment to the sentencing guidelines range because of his acceptance of responsibility, and if the defendant accepts this plea agreement and enters a plea no later than May 3, 2001, the United States will recommend an appropriate downward

1 adjustment, pursuant to the United States Sentencing Guidelines, Section 3E1.1(a) or Section
2 3E1.1(b).

3 12. Good Behavior. The defendant agrees to obey all local, state, and Federal
4 laws between the time of pleading and sentencing, and to serve any sentence imposed by the
5 Court.

6 13. Voluntariness of Plea. The defendant acknowledges that he has entered this
7 plea agreement freely and voluntarily, and that no threats or promises, other than the promises
8 contained in this plea agreement, were made to induce the defendant to enter this plea of
9 guilty.

10 14. Breach and Waiver. The defendant understands and agrees that if the
11 defendant breaches the plea agreement, the defendant may be prosecuted and sentenced for all
12 of the offenses the defendant may have committed. The defendant agrees that if the defendant
13 breaches this plea agreement, the United States Attorney reserves the right to take whatever
14 steps are necessary to nullify the plea agreement, including the filing of a motion to withdraw
15 from the plea agreement and/or to set aside the conviction and sentence. The defendant also
16 agrees that if he is in breach of this plea agreement, the defendant is deemed to have waived
17 objection to the reinstatement of any charges under the Information which may have previously
18 been dismissed or which may have not been previously prosecuted. The defendant further
19 agrees that if he is in breach of this agreement, the defendant is deemed to have also waived
20 objection to the filing of any additional charges against him.

21 15. Statute of Limitations. In the event that this agreement is not accepted by the
22 Court for any reason, or the defendant has breached any of the terms of this plea agreement,
23 the statute of limitations shall be deemed to have been tolled from the date of the plea
24 agreement to (1) 30 days following the date of non-acceptance of the plea agreement by the
25 Court or (2) 30 days following to the date of breach of the plea agreement by the defendant.

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16. Completeness of Agreement. The Government and the defendant acknowledge that these terms constitute the entire plea agreement between the parties.

DATED: This 2 day of May, 2001

~~ERNEST JAMES JACKSON~~
Defendant

Defendant

PAULA DEUTSCH
Attorney for Defendant

SUSAN LOITZ
Assistant United States Attorney

vb

United States District Court
for the
Western District of Washington
May 9, 2001

* * MAILING CERTIFICATE OF CLERK * *

Re: 2:01-cr-00153

True and correct copies of the attached were mailed by the clerk to the following:

Susan G Loitz, Esq.
U S ATTORNEY'S OFFICE
STE 5100
601 UNION ST
SEATTLE, WA 98101-3903
FAX 553-2502

USPO - Seattle
US PROBATION OFFICE - SEATTLE
SUITE 4100
701 5TH AVE
SEATTLE, WA 98104
FAX 206-553-2248